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Webster Says Zakharov Should Have Had Spy Trial

Director Admits FBI Erred in Allowing CIA Ex-Employee Howard to Escape

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8 FBI Director William H. Webster said yesterday that he thinks that Soviet spy Gennadi Zakharov should have been tried before he was traded to the Soviet Union in a complicated exchange.

Webster recommended that a detailed account of Zakharov's activities be made public. "I would like to see the public have a full exposition of [Zakharov's] activities because I think it's important that the public understand that we have hostile intelligence officers who operate from the sanctuary of the United Nations and who engage in intelligence recruiting activities on campuses of our country," Webster said.

"That disposition was handled in a very summary way in order to protect the safety" of Soviet dissident Yuri Orlov, who was turned over to the United States as Zakharov was flown back to Moscow, Webster said. He said a trial would have provided an "education to the American people."

Webster's comments on Zakharov, made at a breakfast meeting with reporters, were his first public statements on the matter.

He also made it clear that he was angered by reports at the time of Zakharov's arrest that the Federal Bureau of Investigation had acted without authorization. "The FBI routinely advises the State Department of any impending arrests of an intelligence officer and asks if there are foreign policy objections," he said.

Turning to another espionage case, Webster conceded FBI error in the case of Edward Lee Howard, the former Central Intelligence Agency employee who eluded FBI surveillance in October 1985 and defected to the Soviet Union.

Zakharov was arrested last August in New York after purchasing three classified documents from a foreign student cooperating with the FBI. His arrest set off a flurry of retaliation, including the arrest of

U.S. News & World Report correspondent Nicholas Daniloff in Moscow and a series of diplomatic expulsions on both sides as the two countries were preparing for the summit meeting in Iceland between President Reagan and Soviet leader Mikhail Gorbachev.

Daniloff was eventually released. Despite objections from the Justice Department, Zakharov was allowed to plead no contest to espionage charges Sept. 30 in New York and was immediately traded for Orlov.

Webster said the State Department informed him before Zakharov's arrest that it had no objection and informed the FBI that Zakharov, a Soviet United Nations employee, did not have diplomatic immunity. Because of the sensitivity of the case so close to the Iceland summit, Webster said he also informed the National Security Council of the impending arrest.

Webster said that Zakharov presented an unusual case because the FBI rarely apprehends foreign spies who have no diplomatic immunity. The last such case occurred in 1978 when FBI agents arrested two Soviet U.N. employees. They were tried and convicted and later traded for several dissidents.

Webster said the State Department and the CIA opposed those arrests but were overruled by then-Attorney General Griffin B. Bell. "Each attorney general since then has supported criminal prosecution against those who don't have diplomatic immunity," Webster said.

He said he expects some differences of opinion with the State Department over accrediting new Soviet diplomats to replace some who were expelled.

In the Howard case, Webster said a "very experienced special operations group" conducted the surveillance. Agents were sent to set up a perimeter around Howard's house in Santa Fe, N.M., but because they did not have probable cause to arrest Howard at that point, "they were advised not to harass him or to come in too close to his house," he said.

Asked about reports that information that would have allowed the

arrest was held up because of an FBI error, Webster said a mistake was made by an agent but did not provide details. When the FBI moved in to make the arrest, the agents found that Howard had slipped away several hours earlier.

Because of concerns about espionage, Webster said he has decided to conduct periodic polygraph examinations of agents who deal with highly classified foreign counterintelligence information.

"I've made a decision to do it, but I've made a decision to do it correctly . . . I want to be sure these measures [can be taken] with confidence in the end product and with care to protect the rights and dignities of the [agents]," Webster said, adding that he has not worked out the details of the program.

The CIA periodically administers polygraph tests to its employees, but Webster has been reluctant to use the technique at the FBI, except in special circumstances. "You cannot build an organization with morale and pride by treating every agent as if they are suspect . . . You must be aware of signs . . . of aberrational behavior. That's different from treating agents as guilty until proved innocent," he said.

Webster said he is working on plans for drug testing at the FBI, despite a U.S. District Court decision this week in New Orleans that a U.S. Customs Service drug testing plan is unconstitutional.

But Webster said, "We don't want to create the impression that we're going through a group of things that suggest a lack of trust in perhaps the most trustworthy agency in the government."